



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

STEVEN H. HILFINGER
DIRECTOR

ENROLLED BILL ANALYSIS

BILL NUMBER: House Bill 4293 (S-3) Senate Bill 194 (S-5)

TOPIC: HB 4293 (S-3) Regulates the sale, purchase, possession and use of fireworks.
SB 194 (S-5) amends the Code of Criminal Procedure by adding sentencing guidelines for violations of Michigan Fireworks Safety Act.

SPONSOR: HB 4293 Representative Harold Haugh
SB 194 Senator Rick Jones

CO-SPONSORS: **HB 4293** - Representatives Lesia Liss, Brandon Dillon, Tim Melton, Roy Schmidt, Rudy Hobbs, Fred Durhal, Jr., Richard Hammel, Ray Franz, Sean McCann, Woodrow Stanley, Marilyn Lane, Maureen Stapleton, Shanelle Jackson, David Nathan, Lisa Brown, Matt Huuki, Frank Foster, Mike Shirkey, Matt Lori, Peter Pettalia, Sharon Tyler, Ellen Cogen Lipton, Douglas Geiss, Vicki Barnett, Bill Rogers, Andrew J. Kandrevas, Wayne A. Schmidt, Thomas Stallworth, Lisa Howze, David Rutledge, Harvey Santana, Jimmy Womack, John Walsh, Bob Constan, Charles Smiley, Jim Townsend, Ed McBroom, Jeff Irwin, John Olumba, Stacy Erwin Oakes.

SB 194 - Senator Darwin Booher and Senator John Proos

COMMITTEE: HB 4293 House Regulatory Reform
SB 194 Senate Regulatory Reform

ADMINISTRATION POSITION: Department of Licensing and Regulatory Affairs supports the legislation.

PROBLEM/BACKGROUND

Currently, under the Michigan Penal Code, consumers may purchase without a permit, certain low grade fireworks such as sparklers and other types of fireworks labeled as Safe and Sane. This new law will expand the types of fireworks that may legally be sold to consumers. This will include consumer fireworks which include Roman Candles, Bottle Rockets and other types of aerial devices that now cannot only be acquired with a permit. Many Michigan citizens now travel to the border states of Indiana, Wisconsin and Ohio or use black market vendors to purchase these consumer fireworks leaving the revenue, fees and taxes in those states, pay black market vendors and illegally use the purchased fireworks in this state. While there are many examples of authorities confiscating illegal fireworks, the vast majority of out of state or Black Market vendors, still operate in the state without providing revenue for the sale of fireworks or enforcement of the law.

DESCRIPTION OF BILL:

House Bill 4293 provides a comprehensive new statute that regulates the sale, purchase, possession and the use of fireworks; provides criminal and civil penalties for violations of the act; imposes a variety of fees on fireworks wholesalers, distributors and retailers; imposes a six percent fee on fireworks retail sales and establishes the Fireworks Safety Fund. The legislation repeals Section XXXIX of the Michigan Penal Code that governs the sale, manufacture, storage, transportation and display of fireworks.

Senate Bill 194 amends the Criminal Procedures Act to include sentencing guidelines for violators of the Michigan Fireworks Safety Act.

SUMMARY OF ARGUMENTS

Pro

The legislation provides a self-sustaining source of revenue for Bureau of Fire Services operations and fire fighter training without making use of General Fund/General Purpose revenues. The legislation provides a means of regulating the flow of consumer grade fireworks into the State of Michigan and provides resources for the vendor certification and enforcement of the law.

Con

Smaller vendors that have been to obtain consumer grade fireworks across the state border, without the level of fees or taxes, must now endure possible financial hardship in order to do business in this state. This financial hardship could also include modifying their existing structures to meet the requirements of National Fire Protection Association (NFPA) 1-NFPA 101, Life Safety Code and fire suppression requirements outlined in NFPA 1124 The Code for the Manufacture, Transportation and Retail Sales of Fireworks and pyrotechnic Articles, and demonstrating financial responsibility by purchasing required insurances to meet certificate requirements.

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: The legislation would require additional FTEs to administer and enforce the program state-wide.

Revenue: Revenues are estimated to be 3 (three) to 4 (four) million dollars, replacing an estimated \$2.6 million of GF/GP funding

Comments: The bureau does not have sufficient staff to administer and enforce the legislation without the additional resources.

(b) State

Budgetary: The new influx of restricted revenue would enable the State to better leverage \$2.6 million of GF/GP revenue for other priorities.

Revenue: The State of Michigan will enhance current revenue projections by the capture of 6% percent sales tax from fireworks sales revenue and obtain restricted revenue from certificates, fireworks

safety fees and fines, which will be used to implement and enforce the legislation and fund mandated state level fire safety and firefighter training programs.

Comments: The State of Michigan will realize economic benefit through fireworks sales currently being lost to the States of Indiana, Wisconsin and Ohio.

(c) Local Government: Local government will be able to receive resources to enforce the act and have sales of fireworks monitored and regulated in their jurisdictions. Local jurisdictions are prohibited from passing ordinances regulating the discharge, ignition and use of consumer fireworks the day proceeding, the day of and the day after a national holiday.

Comments: Citizens will be able to know who is authorized to sell fireworks in their communities through this legislation. While local jurisdictions lose the ability to regulate the sale, purchase and distribution of fireworks in tents, they retain the ability to issue permits, charge for them and retain the fees.

OTHER STATE DEPARTMENTS

Treasury had a concern about the mechanism for the collection of the Fireworks Safety fee. This concern was addressed in the legislation by giving this responsibility to the Department of Licensing and Regulatory Affairs. However, there will be need for follow up legislation to clarify that the State Treasurer retains responsibility for maintaining the fund and investing its proceeds.

ANY OTHER PERTINENT INFORMATION

Legislation supporters are the Fire Service, fireworks wholesalers, distributors and retailers' legislation opponents are the States of Indiana, Wisconsin and Ohio and vendors located in those states who will realize lost revenue from Michigan residents who will now remain in Michigan to purchase fireworks instead of engaging in cross-border sales.

ADMINISTRATIVE RULES IMPACT

New administrative rules will have to be promulgated for the certification and issuance of certificates authorizing the sale, transport, distribution and storage of fireworks, standards for fireworks facility storage, inspection, life safety requirements, enforcement of the law, collection and amounts of associated fees, security of confiscated fireworks, rules of evidence and maintenance of chains of custody and criteria to be used by local units of government for the issue of fireworks permits.